

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

v.

Case No. 20-mj-80

MARQUON CLARK,

Defendant.

COMPLAINT FOR VIOLATIONS OF
TITLE 18, UNITED STATES CODE, SECTION 844(i)

BEFORE United States Magistrate Judge
Stephen L. Crocker

United States District Court
120 North Henry Street
Madison, Wisconsin 53703

The undersigned complainant being duly sworn states:

COUNT 1

On or about June 24, 2020, in the Western District of Wisconsin, the defendant,

MARQUON CLARK,

maliciously attempted to damage and destroy, by means of fire, the City-County Building, a commercial building in Madison, Wisconsin, which was used in interstate and foreign commerce.

(In violation of Title 18, United States Code, Section 844(i)).

This complaint is based on the attached affidavit of [REDACTED]

[REDACTED]
Special Agent, Bureau of Alcohol,
Tobacco, Firearms and Explosives

Sworn to me telephonically this 5th day of October, 2020.


HONORABLE STEPHEN L. CROCKER
United States Magistrate Judge

AFFIDAVIT

STATE OF WISCONSIN)
) ss.
DANE COUNTY)

I, [REDACTED] being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent of the United States Justice Department, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), currently assigned to the Madison Field Office. I have been so employed since July of 2009. I am a graduate of the Federal Law Enforcement Training Center Criminal Investigator Training Program, the Department of Justice, Bureau of Alcohol Tobacco Firearms and Explosives Special Agent Basic Training, and have received extensive training to qualify as an expert in fire origin and cause investigations. Prior to my employment with the ATF, I was employed as a local fire marshal/fire investigator/fire fighter in the state of Virginia from June 1997 to December 2008.

2. The facts contained in this affidavit are known through my personal knowledge, training, and experience, and through information provided to me by other law enforcement officers, who have provided information to me during the course of their official duties and whom I consider truthful and reliable.

3. In the early morning hours of June 24, 2020, an individual intentionally set fire to the City-County Building (CCB), located at 210 Martin Luther King Blvd. in Madison, Wisconsin. As set forth below, photographic evidence, digital forensic

evidence, and DNA evidence recovered from the scene establish probable cause that Marquon CLARK is the individual who attempted to damage the CCB by using fire. This affidavit does not contain every fact I know about this investigation, but merely is intended to show probable cause that CLARK committed a violation of Title 18, United States Code, Section 844(i), attempting to cause damage by fire or an explosive.

4. In connection with this investigation, I reviewed numerous surveillance videos and photos, taken at and around the time of the arson. I also reviewed surveillance videos and photos of CLARK walking around different locations in downtown Madison during the day on June 23, 2020.

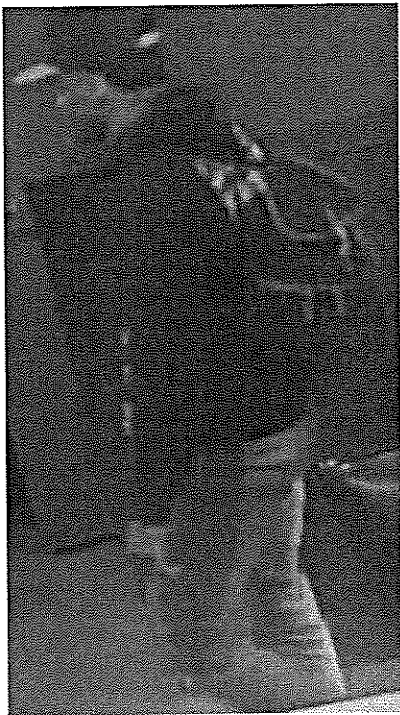
5. On June 23, 2020, surveillance cameras show CLARK walking around different locations in downtown Madison. The following photographs from June 23 between 11:00 a.m. and 1:00 p.m. from the area of Francis and State Street were shown to a Madison Police Department Sergeant. This particular sergeant has arrested CLARK on one previous occasion and had about five other professional contacts with him. In each of the three photographs below, the sergeant identified CLARK as the individual circled in red, who is wearing a blue colored straight brim hat with a tan brim, a black hoodie sweatshirt, faded jeans, brown shoes, and carrying a blue colored back pack with tan/brown arm straps. In addition, I have identified a woman walking with CLARK who I will refer to as "T.B." "T.B." is wearing a black and pink North Face jacket and black pants with white strips down the legs.¹

¹ Based on interviews I have conducted, I believe "T.B." is CLARK's girlfriend.





6. In addition, I recognize CLARK from the following picture taken on June 23 from a business in downtown Madison. In the picture, I noticed that the rear of CLARK's blue colored backpack has contrasting piping.

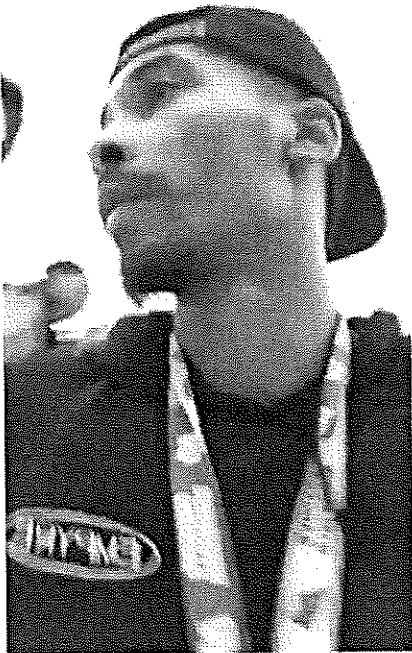


7. In the photographs below, CLARK is seen at approximately 5:30 p.m. on June 23, 2020, in downtown Madison. In the photographs, he is wearing the same blue colored straight brim hat with tan brim, a black hooded sweatshirt, faded jeans, and brown shoes as earlier in the day.



8. On June 23, 2020, at approximately 7:30 p.m., protestors in downtown Madison surrounded a commercial tow truck. The tow truck was parked in front of the Dane County Courthouse, at South Hamilton Street and North Henry Street, which is located one block from the CCB. Protesters caused the driver to evacuate and abandon his vehicle. A YouTube video shows CLARK, standing on top of the tow truck,

recording a video.² During the video, CLARK makes the following statements - "We got a mother fucking tow truck," "Fuck12," "We going to get that mother fucker, I promise you," "it's a revolution, come downtown tonight it's about to go down." A still image of CLARK from the video is below. In the video, CLARK is wearing a black sweatshirt with an oval "Empyre" logo on the chest. It should be noted that the "Empyre" logo appears to be written backwards (or "mirrored"). Similarly, it also appears that the "Empyre" logo is on CLARK's right chest rather than on the left (as seen above). I am aware that such "mirroring" can happen when someone records an image with a cellular telephone.



² <https://www.youtube.com/watch?v=RawI6Rq44uU>

9. On June 24, 2020, at approximately 12:15 a.m., as depicted below, city cameras show a person that I believe is CLARK walking towards the CCB building holding a water bottle with what appears to be a wick sticking out of the top of the bottle. In the picture, CLARK is seen wearing a black hooded sweatshirt, faded jeans, brown shoes, and a blue colored backpack with tan/brown straps. I believe that CLARK is the person depicted below based on the similar clothing and backpack that he was seen wearing earlier in the day. The image also shows a person who is the same size and body shape as CLARK.



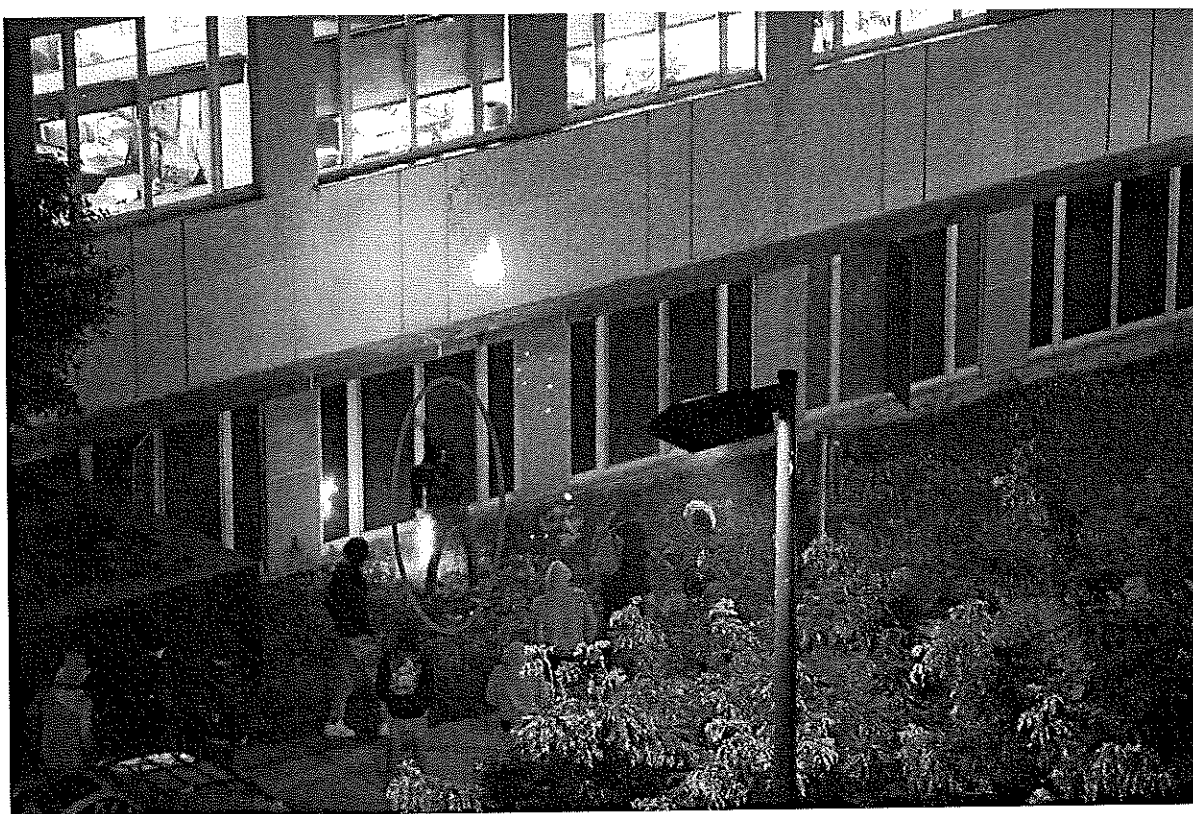
10. Although the picture above does not show CLARK's face, it is important to note the similarity between the clothing he is wearing at that time compared to the

surveillance photos of him earlier in day. A side-by-side comparison of this photograph to pictures of CLARK earlier on June 23 is below.

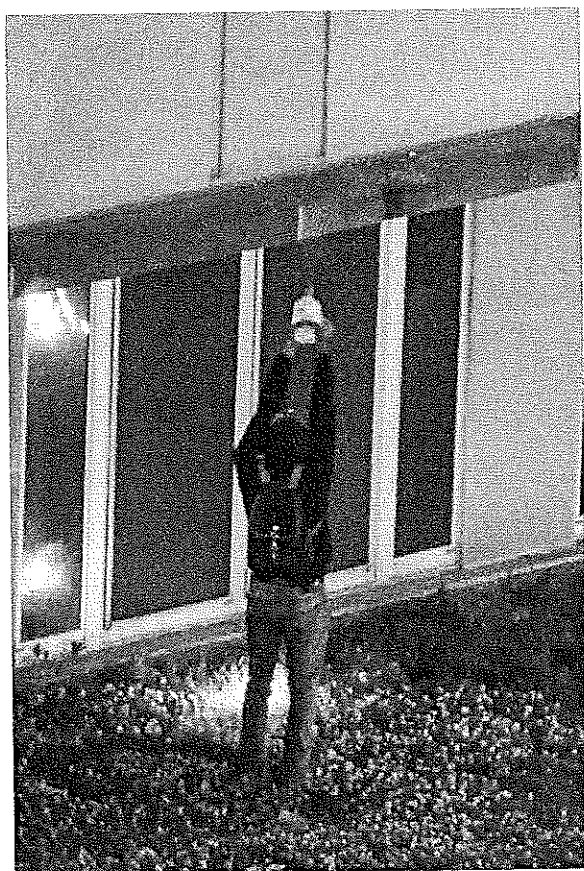


11. On June 24, 2020, at approximately 12:41 a.m., Dane County Dispatch employees within the CCB heard glass breaking near their workspace and smoke was observed in the building. The CCB's fire alarms were then activated and employees began to evacuate the building.

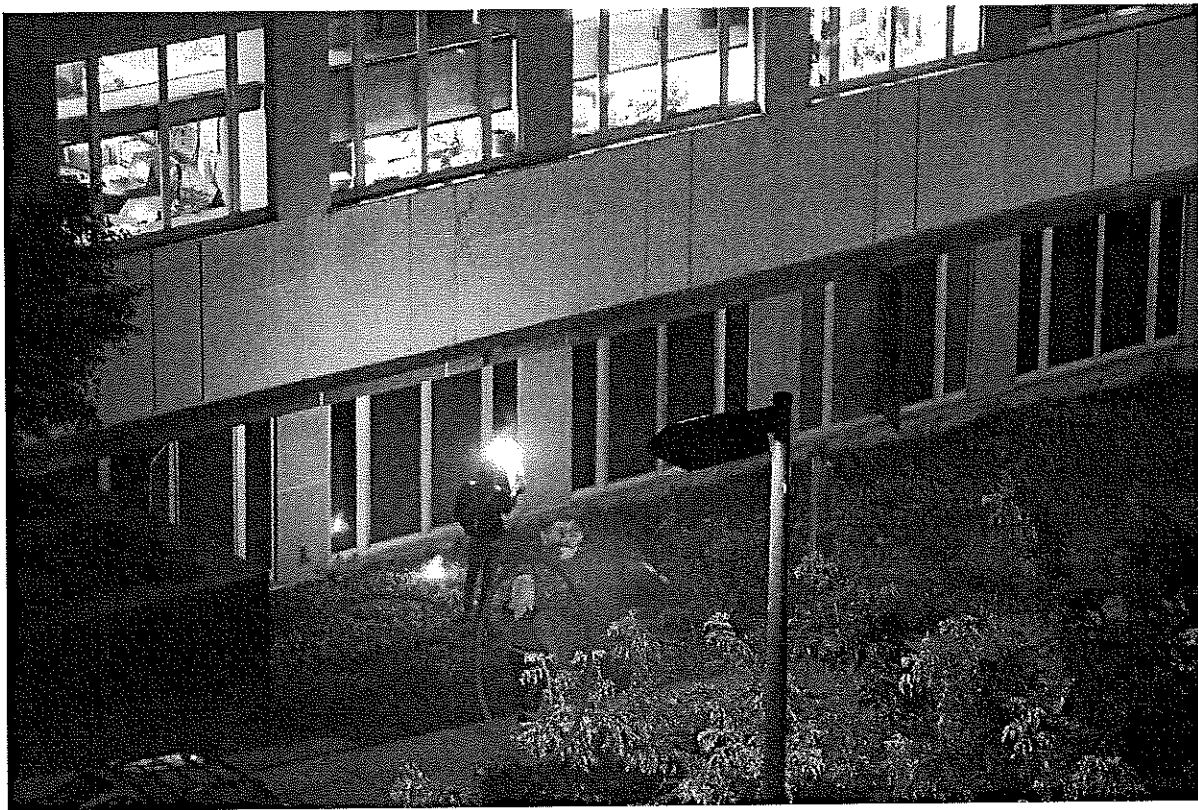
12. Photographs from the exterior of the CCB building taken at same time show a person who I believe is CLARK throwing projectiles through the windows of the CCB. I believe this image shows CLARK based on the similar clothing and backpack that he was seen wearing earlier in the day. The image also shows a person who is the same size and body shape as CLARK. After the windows were broken, CLARK threw a lit roll of paper towels into the CCB in an attempt to start a fire, as depicted in the photographs below. In the photographs, CLARK is wearing the same blue colored backpack with tan/brown arm straps and contrasting piping that he was captured on video wearing earlier in the day.

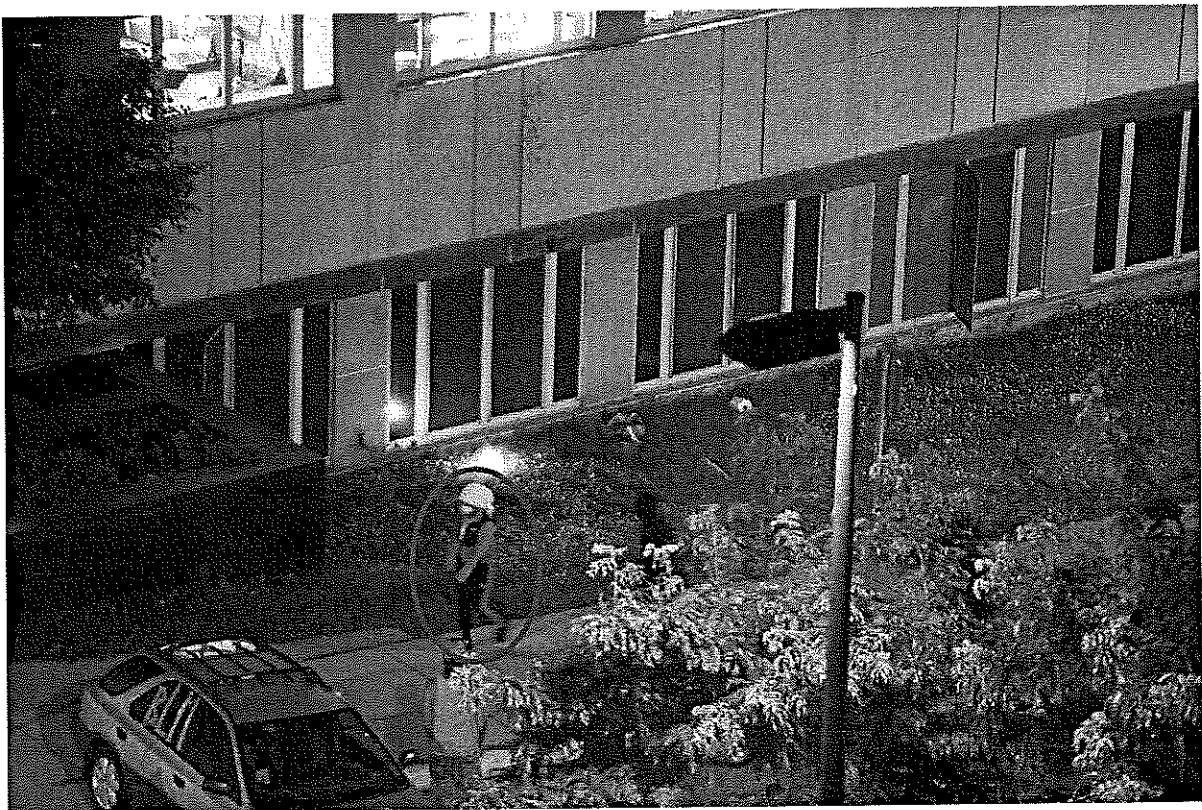






13. The following three photographs from the exterior of the CCB show a person resembling "T.B." at the scene with CLARK. This is the same woman identified as being with CLARK earlier in the day on June 23, 2020. She still appears to be wearing the same jacket and black pants with white strips down the legs as earlier in the day.





14. Officers responding to the CCB noticed a clear plastic water bottle with a burned wick in the neck of the bottle, outside of the building near where CLARK was standing. As shown below, this water bottle looks similar to the water bottle CLARK was holding approximately 15 minutes before the fire started. This water bottle was collected at the scene and later sent to an ATF laboratory for DNA analysis.



15. As shown below, at the scene of the fire inside the CCB, investigators located a clear plastic bottle with a burned neck.



Deputies from the Dane County Sheriff's Office were able to put out the fire, preventing it from spreading beyond the cubical and its contents. At the time of the fire, the CCB was occupied by over 250 people, including approximately ten deputies with the Dane County Sheriff's Office and approximately 182 adult and juvenile inmates at the jail.



The Madison Fire Department responded to the extinguished fire to ventilate the building. The Madison Fire Investigation Team responded to the scene to conduct the origin and cause investigation. The Madison Fire Investigation Team determined the fire was intentionally set, and classified the fire as incendiary. The fire resulted in approximately \$105,000 in damages and clean-up costs.

16. On June 24, 2020, I walked through the arson scene at the CCB prior to the cleanup contractors making entry into the secured space. I observed the fire scene in its post-processing condition. I observed items that I believe were used as projectiles to break windows at the CCB prior to the fire. These projectiles included several rocks laying on the floor, a metal bar on a desk in the cubicle where the fire started, and a small hammer located on the aisle way floor close to the cubicle where the fire started. I collected the hammer and metal bar as ATF evidence. The hammer and metal bar were both sent to the ATF laboratory for latent prints and DNA analysis.

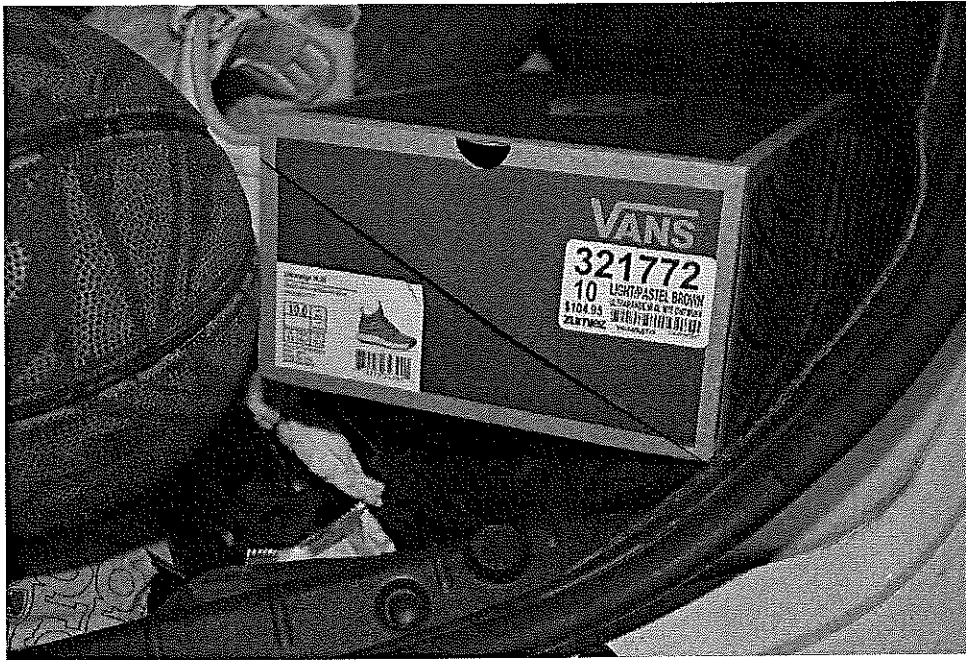
17. The CCB is the property of the City of Madison and Dane County. Both the City of Madison and Dane County conduct business in interstate commerce, for instance by purchasing vehicles and other equipment and supplies in interstate commerce. The activities of the City of Madison and Dane County in enacting and enforcing laws also affect interstate commerce.

18. During the course of my investigation, I found a Facebook account that appears to belong to CLARK - <https://www.facebook.com/sire.gq>. I know that "Sire GQ" is a nickname used by CLARK. As I reviewed the account, I saw numerous Facebook Live videos taken by CLARK on June 21, 2020, as he helped lead protests in downtown Madison. In one of the videos from that day, he can be seen and heard leading the following chant - "If we don't get it, burn it down."

19. On June 30, 2020, officers stopped a 2007 white Chevrolet Malibu with Wisconsin license plate number AAR7825 ("the Malibu") on Verona Road in Madison.

CLARK was driving the Malibu and "T.B." was in the front passenger seat. The Malibu is registered to "T.B." CLARK was arrested for a parole warrant and he did not have a cellular telephone in his possession. "T.B." was released with a cellular telephone in her possession. The Malibu was towed away from the scene.

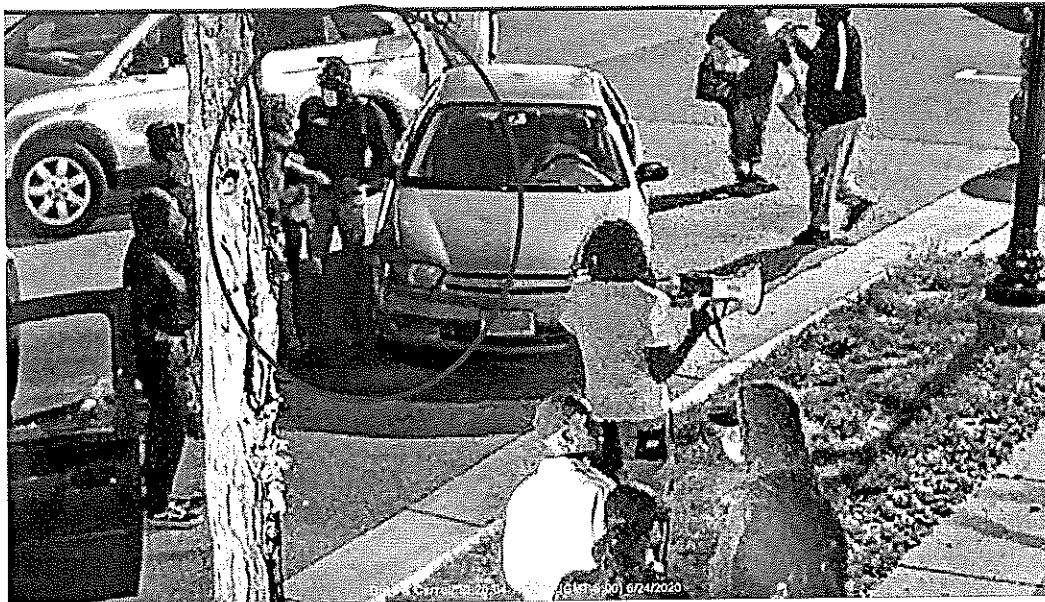
20. On July 1, 2020, Magistrate Judge Stephen Crocker signed a search warrant for the Malibu. During the search, officers found a black Apple iPhone ("the iPhone") on the front passenger's seat on top of a pale blue shirt. In addition, agents found a receipt from a Zumiez store in Chicago, Illinois, that showed the Empyre "Cosmic Realm" sweatshirt was purchased on June 20, 2020. As shown in the picture below, agents also found a shoebox in the trunk of the vehicle for brown Vans shoes (size 10). The Zumiez receipt from June 20 also showed the purchase of these shoes. The picture of the shoes on the shoebox is consistent with the shoes that CLARK is seen wearing throughout the day on June 23 and at the scene of the arson of the CCB.

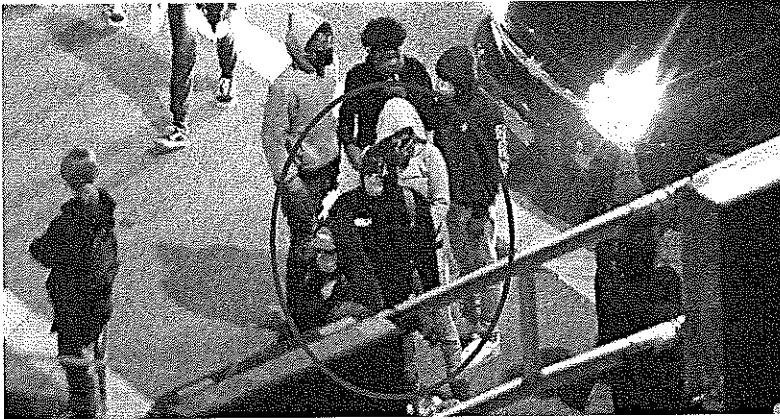


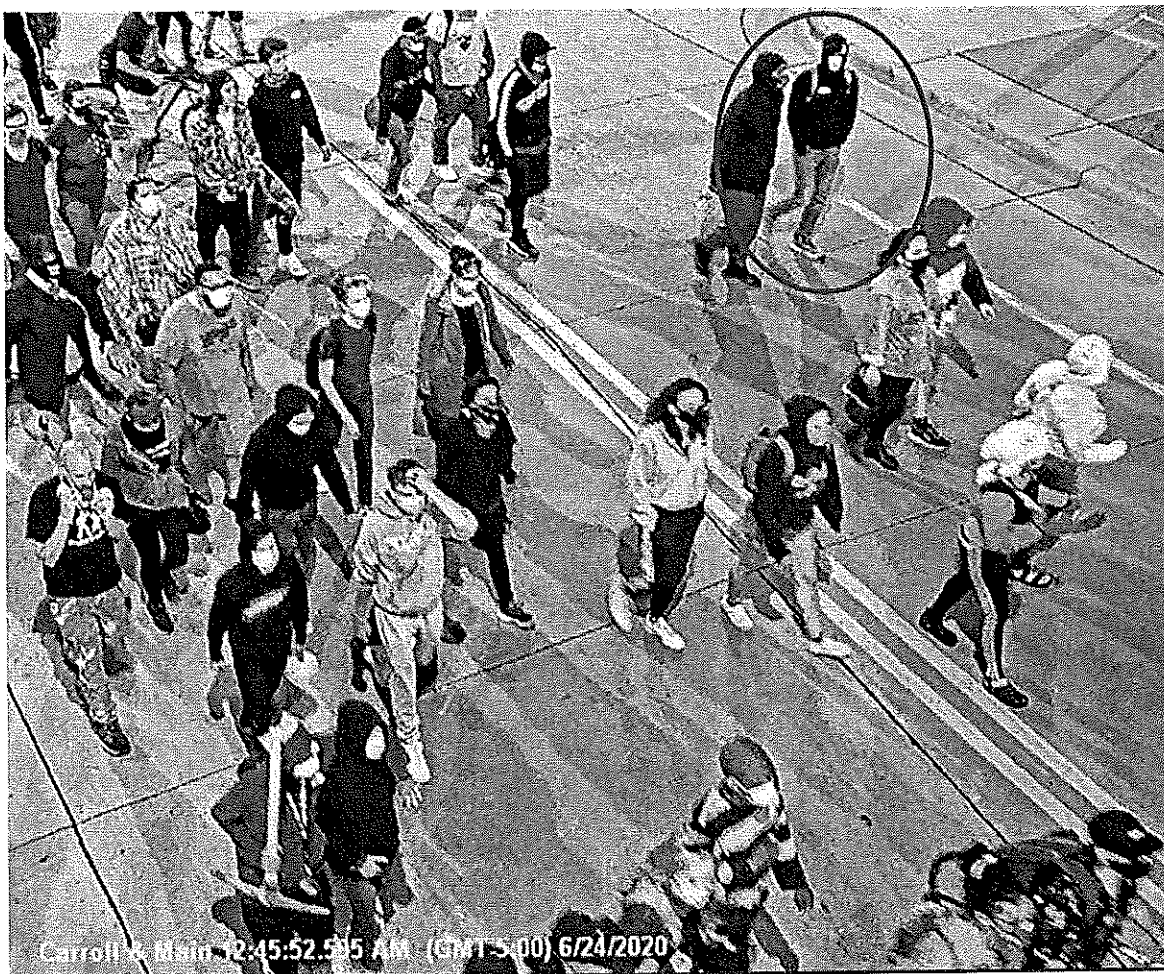
21. On July 2, 2020, United States District Judge William Conley signed a search warrant for the iPhone. A subsequent search of the iPhone and its contents revealed it belonged to CLARK and was assigned telephone number (608) 716-9112. Specifically, the iPhone contained photographs and videos of CLARK and electronic communications between CLARK and other individuals. In addition, (608) 716-9112 was CLARK's registered telephone number with the Wisconsin Department of Corrections.

22. On July 1, 2020, and again on September 4, 2020, Magistrate Judge Stephen Crocker signed search warrants for cellular data related to telephone number (608) 716-9112. The cellular data received from Sprint for (608) 716-9112 was sent to the Federal Bureau of Investigation (FBI) for analysis.

23. As noted above, CLARK wore a black Empyre hoodie during the day on June 23, 2020, and agents found a receipt in the Malibu that showed the Empyre sweatshirt was a "Cosmic Realm" style. Agents determined the Empyre brand is sold through the retailer Zumiez. Agents purchased a "Cosmic Realm" hooded sweatshirt through an online purchase from Zumiez. As explained in paragraph 24, agents believe that CLARK wore the sweatshirt inside out in the photographs below.







24. A picture of the Empyre "Cosmic Realm" sweatshirt purchased by agents is shown below after being turned inside out. As seen in the photographs, when the sweatshirt was turned inside out, the front shows a white oval on the right chest. In addition, the back of the sweatshirt shows a screen printed tag at the top center of the sweatshirt. When the images of the purchased sweatshirt are compared to the pictures of CLARK shown above, it leads me to conclude that CLARK turned his "Empyre" sweatshirt inside out prior to the fire at the CCB.



25. After analyzing the cellular data from CLARK's telephone (608) 716-9112, FBI agents found that the telephone utilized a Sprint cellular tower that provides coverage to the area around the CCB at the following times on June 24, 2020: 12:01 a.m.; 12:15 a.m.; 12:23 a.m.; 12:34 a.m.; 12:48 a.m.; 12:49 a.m.; 12:55 a.m., and 12:58 a.m. The cellular tower is on top of the building located at 333 W. Main St. in Madison and is approximately four blocks southwest from the CCB.

26. On October 1, 2020, I received a report from the ATF laboratory regarding the water bottle found outside the CCB and the hammer recovered from fire scene (see paragraphs 14 and 16 above). According to the report, a forensic biologist obtained a DNA mixture from the hammer and determined that the DNA likely originated from CLARK and three unknown individuals. The report stated that "[t]he DNA profile is at

least 1 trillion times more likely if it originated from Marquon Clark as a major contributor and three unrelated, unknown individuals than if it originated from four unrelated, unknown individuals.” In addition, the report found that “[t]he probability of an unrelated individual in the population, who has not contributed DNA to this sample, yielding this level of support, is less than 1 in one trillion.”

27. Regarding the water bottle, a forensic biologist obtained a DNA mixture and determined that the DNA likely originated from “T.B.” and two other unknown individuals. The report stated “[t]he DNA profile is 266 million times more likely if it originated from [“T.B.”] as the major contributor and two unrelated, unknown individuals than if it originated from three unrelated, unknown individuals.” In addition, the report found “[t]he probability of an unrelated individual in the population, who has not contributed DNA to this sample, yielding this level of support, is less than 1 in 266 million.”

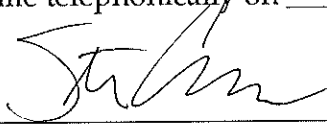
28. Based on the foregoing facts, I believe there is probable cause that CLARK committed violations of Title 18, United States Code, Section 844(i), attempting to cause

damage by fire or an explosive, as described in the attached criminal complaint.

Dated this ____ day of October 2020.

Special Agent, ATF

Subscribed and sworn to before me telephonically on ^{17th} 5th day of October 2020.



STEPHEN L. CROCKER
United States Magistrate Judge